

**FILED**  
**SEP 19 2019**  
CLERK U.S. BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
BY: *[Signature]* Deputy Clerk

In re	)	<b>BK No. 2:18-bk-16497-SK</b>
	)	
Beisa Ramulic Vallejo,	)	<b>Chapter 13</b>
	)	
Debtors,	)	
	)	<b>OPPOSITION TO MOTION FOR RELIEF</b>
	)	<b>FROM AUTOMATIC STAY FILED BY</b>
vs.	)	<b>MOVANT WHEELS FINANCIAL, ET AL.</b>
	)	
<b>WHEELS FINANCIAL GROUP, LLC.,</b>	)	<b><u>HEARING:</u></b>
	)	
et al. ( Movant )	)	<b>DATE: October 2, 2019</b>
	)	<b>TIME: 08:30 a.m.</b>
	)	<b>CTRM: 1575</b>

**TO THE HONORABLE SANDRA R. KLEIN, UNITED STATES BANKRUPTCY COURT  
JUDGE, THE TRUSTEE AND OTHER INTERESTED PARTIES:**

**PLEASE TAKE NOTICE** that an oral hearing regarding a motion to the lift the automatic stay is set for October 2, 2019, and an opposition to the motion must be filed 14 days prior to that date.

Debtor hereby files its opposition to Movant's motion based on the following memorandum of points, the pleadings on file in this case, any supplemental briefing filed in connection with the Motion, and any oral argument presented at the hearing the Motion.

Debtor also received a "Notice to Filer of Error and/ Deficient Document" and herein corrects that deficiency.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I.**

**INTRODUCTION**

On August 30, 2019, WHEELS FINANCIAL GROUP, LLC. dba LoanMart (hereinafter “Movant”) filed its motion for relief of the automatic stay pursuant to 11 U.S.C. § 362(d)(1). “(d)On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—(1) for cause, including the lack of adequate protection of an interest in property of such party in interest;”.

Movant has failed to prove any such “cause” exists to be granted the relief of the automatic stay.

The **Motion was filed prematurely** since in the evidence presented by the Movant as Exhibit “A” ( Doc 67-2 attached ), alleging to be a “Promissory Note and Security Agreement”, it clearly contains an ARBITRATION AGREEMENT on page 4 which states the following:

“YOU AND LENDER ( MOVANT ) ACKNOWLEDGE AND AGREE AS FOLLOWS:

2. Any Party Can Demand Arbitration... and in 6. “...the arbitrator shall apply applicable substantive law consistent with the Federal Arbitration Act 9 U.S.C...”. The Agreement is signed by the “Lender: Continental Currency Services, Inc. dba CCS” on 03/13/2015 as can be seen on Exhibit “A” Page 22 of 28. ( Doc 67-2 Attached).

The Debtor has demanded Arbitration and the settlement of the debt once and for all.

Based upon the foregoing, and as discussed in further detail below, the Motion must be denied due to being filed prematurely.

II.

**STATEMENT OF FACTS**

1. On August 30, 2019, Movant filed its Motion for Relief from Stay.

2. On September 13, 2019, Debtor and Debtor's Husband, Eduardo Enrique Vallejo, filed the following Declaration "Regarding Arbitration in Support of Opposition to Motion for Relief from Automatic Stay Filed by Creditor and Request for an Urgent Order to Return the Private Property to Debtor ( Document(s) 69 and 67).

3. The Court sent Debtor a "Notice to Filer of Error and/ Deficient Document" and Debtor herein corrects that deficiency.

4. Debtor's husband, Eduardo Vallejo, filed a declaration in support of the opposition to the motion, informing the Court that he had initiated Arbitration with the Movant and asked the Court to Stay the matter until after Arbitration has been finalized based on the following:

III.

**DECLARATION**

My name is Eduardo Vallejo, I am 61 years of age, the husband of the Debtor, Beisa Ramulic Vallejo, and declare as follows:

1.) My wife and I live in a community property State and together we own the personal property pertaining to our Estate, the vehicle a 1974 Alfa Romeo Spider with VIN: AR3043863, with active California License Number 4USG591, insured since June 9, 2016 with GEICO Policy Number: 4438321418, which has in our opinion been repossessed unlawfully and in violation of the automatic stay.



1 Some California borrowers have brought arbitration proceedings against Creditors  
2 arguing that the loans they entered into are **invalid** because they were *unconscionable* and  
3 didn't comply with California lending law. Such is the case here.

4 The present loan contract the borrower signed with the Movant includes a broad  
5 **mandatory arbitration clause**. In other similar cases Bankruptcy Courts have concluded  
6 that these arbitration proceedings are covered by the automatic stay, because the **loan contracts**  
7 **are property of the estate** and the borrowers sought declarations that the contracts were invalid.  
8 Some Bankruptcy Courts have noted some uncertainty as to whether such declarations would  
9 bind non-parties to arbitrations, but concluded that there was some possibility that they would.

10 An applicant for relief from the automatic stay must show "cause." 11 U.S.C.  
11 § 362(d)(1). Relying on prior case law involving the application of the automatic stay to  
12 Arbitration agreements, Bankruptcy Courts must decide if the issue is a "non-core" issue,  
13 or a "core", issue as is the case here, and therefore the Court can not grant the Movant's  
14 motion for relief from the stay because it is a "core" issue since the vehicle belongs to the estate.

15 Bankruptcy law divides proceedings between core proceedings and non-core proceedings.  
16 28 U.S.C. § 157. The origin of this statutory distinction is the constitutional limits on the scope  
17 of a bankruptcy court's jurisdiction. Because the statutory definition is supposed to track the  
18 constitutional definition, the court first considered whether the issue regarding the loan  
19 contracts' validity was "core" as a matter of constitutional law.

20 Relying on *Stern v. Marshall*, 564 U.S. 462, 499 (2011), the court held that an issue is  
21 constitutionally core if it "stems from the bankruptcy itself or would necessarily be resolved in  
22 claims allowance process."

23 Courts have noted that nonetheless that claims arguably fall within the statutory definition  
24 in section 157 of the Bankruptcy Code because they could be understood as "matters concerning  
25 the administration of the estate" or "other proceedings affecting the liquidation of the assets  
26  
27  
28

1 of the estate," since the loan contracts and their receivables were the estate's main assets.

2 Movant has not shown cause nor met its burden to obtain relief from the OTAS, and Relief  
3 from the OTAS is otherwise unwarranted. The Motion is unsupported by any evidence and contains  
4 no arguments that relief from the OTAS is warranted under any specific subsection. Nevertheless,  
5 the Motion must be denied because it is not supported by any sound arguments, since the matter must  
6 be settled in mandatory arbitration.  
7

8 V.

9 CONCLUSION

10  
11 Based upon the foregoing, the Debtor respectfully requests that the Court deny Movant's  
12 motion for relief from the Automatic Stay and order mandatory arbitration.  
13

14  
15 DATED: September 17, 2019

16 *Beisa Ramulic Vallejo*

17  
18 /s/ Beisa Ramulic Vallejo

19  
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26  
27  
28

*1A 7. 1A.*  
*Eduardo Enrique Vallejo*  
*Co-Debtor*

**CERTIFICATE OF SERVICE**

Federal Bankruptcy Court Case Number: 2:18-bk-16497-SK

I am a resident of the State of California, over the age of eighteen years, and a party to the within action.

**OPPOSITION TO MOTION FOR RELIEF FROM AUTOMATIC STAY FILED BY  
MOVANT WHEELS FINANCIAL, ET AL.**

☐ by transmitting via facsimile on this date the document(s) listed above to the facsimile numbers set forth below. The transmission was completed before the close of business and was reported complete and without error.

☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail addressed as set forth below. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date on postage meter date is more than one day after the date of deposit in this Declaration.

☒ BY CM/ECF ELECTRONIC DELIVERY: In accordance with the registered case participants and in accordance with the procedures set forth at the Federal Bankruptcy and District Courts, Ninth Circuit BAP and Court of Appeals of California website <https://ecf.cacd.uscourts.gov>.

☒ by placing the document(s) listed above in a sealed envelope(s) and consigning it to an express mail service for guaranteed delivery on the next business day following the date of consignment to the address(es) set forth below. A copy of the consignment slip is attached to this proof of service. (See Attached Service List)

I declare under penalty of perjury under the laws of the United States that the above is true and correct. Respectfully submitted, this 17th day of September of 2019.

Dated: September 17, 2019

/s/ Beisa Ramulic Vallejo

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